

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COLONIAL MORTGAGE SERVICE CO.,

Plaintiff,

v.

COMMONWEALTH LAND TITLE
INSURANCE CO.,

Defendant.

CIVIL ACTION
NO. 14-3807

ORDER

AND NOW, this 14th day of November 2014, upon consideration of the Complaint (Doc. No. 1), Colonial Mortgage Service Co.'s ("Colonial") Motion for Partial Summary Judgment (Doc. No. 14), Commonwealth Land Title Insurance Co.'s ("Commonwealth") Cross-Motion for Partial Summary Judgment and Response to Colonial's Motion (Doc. Nos. 16, 17), Plaintiff's Reply and Response to Defendant's Cross-Motion (Doc. No. 18), Defendant's Reply to Plaintiff's Response (Doc. No. 19), the pertinent exhibits, and in accordance with the Opinion of the Court issued this day, it is **ORDERED** as follows:

1. Colonial's Motion for Partial Summary Judgment (Doc. No. 14) is granted in part and denied in part. The Motion is **GRANTED** with respect to Commonwealth's decision not to defend the constructive trust, constructive fraud, negligence, and civil conspiracy claims against Colonial. The Motion is **DENIED** with respect to Commonwealth's decision not to defend the tortious interference with contract and successor liability claims. It is further **ORDERED** that Commonwealth is required to defend Colonial in the New Jersey state court action on all claims subject to apportionment of expenses for defending the non-covered claims after the state court case is terminated.

2. Commonwealth's Cross-Motion for Partial Summary Judgment (Doc. No. 16) is granted in part and denied in part. The Motion is **GRANTED** with respect to Commonwealth's decision not to defend the tortious interference with contract and successor liability claims against Colonial asserted in the New Jersey state court action. The Motion is **DENIED** with respect to Commonwealth's decision not to defend the constructive trust, constructive fraud, negligence, and civil conspiracy claims asserted in the New Jersey state court action. It is further **ORDERED** that Commonwealth is required to defend Colonial in the New Jersey state court action on all claims subject to apportionment of expenses for defending the non-covered claims after the state court case is terminated.
3. The Clerk of Court is directed to place this case in suspense pending the termination of the litigation in New Jersey state court in which Colonial and Commonwealth are named as defendants.

BY THE COURT:

/s/ Joel H. Slomsky
JOEL H. SLOMSKY, J.